

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

In the Matter of)
)
Implementation of the)
Telecommunications Act of 1996:)
)
Telecommunications Carriers' Use of)
Customer Proprietary Network Information)
and Other Customer Information)
)
Implementation of the Non-Accounting)
Safeguards of Sections 271 and 272 of the)
Communications Act of 1934, as Amended)

CC Docket No. 96-115

APR 14 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 96-149

REPLY COMMENTS
OF THE
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

L. Marie Guillory
(202) 298-2359

Its Attorney

2626 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

SUMMARY

NTCA is opposed to the adoption of additional rules that would give customers the right to restrict access to CPNI for all marketing purposes. Rules to that effect are unnecessary and beyond the scope of Section 222 of the Act. Also, at this time, no additional rules are needed to protect carrier information gained by providers of wholesale service. Lastly the Commission should not go beyond the specific remedies provided for in Section 258 of the Act unless and until circumstances indicate that additional enforcement mechanisms are needed.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of the)	CC Docket No. 96-115
Telecommunications Act of 1996:)	
)	
Telecommunications Carriers' Use)	
of Customer Proprietary Network)	
Information and Other)	
Customer Information)	
)	
Implementation of the Non-Accounting)	CC Docket No. 96-149
Safeguards of Sections 271 and 272 of the)	
Communications Act of 1934, as Amended)	

**REPLY COMMENTS
of the
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION**

The National Telephone Cooperative Association ("NTCA") is a national association of approximately 500 local exchange carriers that provide service primarily in rural areas. All NTCA members are small carriers that are "rural telephone companies" as defined in the Telecommunications Act of 1996 ("Act").¹ Approximately half of NTCA's members are organized as cooperatives.

NTCA submits these Reply Comments in response to the Further Notice of Proposed Rulemaking ("FNPRM") in the above-captioned proceeding. In the *Second Report and Order*¹ preceding the FNPRM, the Commission implemented Section 222, the CPNI provisions, of the Telecommunications Act of 1996. In the FNPRM, the Commission sought comment on the

¹ 47 U.S.C. §§ 151 *et. seq.*

following questions: (1) should customers have the right to restrict access to CPNI for all marketing purposes; (2) should the Commission adopt additional rules, beyond those adopted in the *Second Report and Order*,² to protect competitively-sensitive carrier information; and (3) should the Commission adopt further enforcement mechanisms, such as requiring compensation, to ensure that carriers discharge their duties under section 222(a) to protect the confidentiality of customer information.³

Several parties filed comments in response to the FNPRM. Not one supports any of the Commission's proposals. In general, NTCA agrees with these commenters and files replies to further convince the Commission that its proposals are unnecessary and unduly burdensome as applied to small and rural telephone companies.

NTCA agrees with GTE and SBC that additional rules that allow customers to restrict access to CPNI for all marketing purposes go beyond the terms of Section 222 and conflict with Congressional intent.⁴ Even if somehow consistent with Section 222, NTCA agrees with BellSouth that "additional regulations are unnecessary because customers already have available to them all the rights and tools they need to prevent carriers from engaging in unwanted marketing activity with the existing total service relationship."⁵

² Second Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 96-115 (rel. Feb. 26, 1998).

³ The FNPRM raises an additional question to which NTCA does not comment, i.e., should the Commission adopt the FBI's proposal that would prohibit foreign access to and storage of domestic CPNI. See FNPRM, ¶ 208.

⁴ GTE Comments at 4; SBC Comments at 2.

⁵ BellSouth Comments at 2.

NTCA believes that expanding the scope of Section 222 to include the right to prohibit access to CPNI for all marketing purposes does not serve the interests of the customers of its rural members. Unlike the relationship between customers and carriers in large markets, rural telephone companies, by and large, have closer ties to their customers because companies are local. In the case of cooperatives, companies and customers have an identity of interest and member subscribers participate in company governance by electing the board. Restricting access and use of CPNI beyond that recognized by Section 222 would unnecessarily inhibit these carriers' ability to serve their customers. The potential burden contained in the Commission's proposal borders on the absurd if applied to cooperative telephone companies, which by their very nature are owned by the people they serve. It makes no sense to restrict a cooperative carrier's access to the CPNI of its owners in the first instance, it makes even less sense to expand the scope of Section 222, as the Commission proposes.

NTCA agrees with GTE and BellSouth that no additional rules are required to protect competitively-sensitive carrier information and that a decision otherwise should be left to Congress.⁶

Finally, NTCA strongly urges the Commission to dismiss thoughts of imposing further enforcement mechanisms as part of its effort to ensure that carriers discharge their Section 222 duties, such as the auditing and tracking of carrier access to CPNI. The auditing and tracking rules adopted in the *Second Report and Order* and contained Section 64.2009 of the Commission's rules already will impose undue burdens on small companies. The administrative

⁶ GTE Comments at 6; BellSouth Comments at 5.

and cost burdens imposed by 64.2009 are particularly disproportionate to its benefits in markets served by rural telephone companies where there are no requests for interconnection and no interest on the part of competitors. As applied to rural telephone carriers, there is even less support for imposing additional enforcement mechanisms, such as requiring compensation. NTCA believes that not only should the Commission refuse to adopt additional enforcement mechanisms, NTCA feels the Commission should reconsider Section 64.2009, as applied to rural telephone carriers, because it will prove to be unduly burdensome and costly to such companies.

CONCLUSION

For the foregoing reasons, NTCA urges the Commission to dismiss the proposals set forth in the FNPRM.

Respectfully submitted,

NATIONAL TELEPHONE COOPERATIVE
ASSOCIATION

By: L. Marie Guillory
L. Marie Guillory
(202) 298-2359

Its Attorney

2626 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

April 14, 1998

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Reply Comments of the National Telephone Cooperative Association in CC Docket No. 96-115/CC Docket No. 96-149 was served on this 14th day of April 1998, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list:


Gail C. Malloy

Chairman William E. Kennard
Federal Communications Commission
1919 M Street, N.W., Room 814-0101
Washington, D.C. 20554

Commissioner Gloria Tristani
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, D.C. 20554

Commissioner Michael Powell
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

Commissioner Susan Ness
Federal Communications Commission
1919 M Street, N.W., Room 832-0104
Washington, D.C. 20554

Commissioner Harold W. Furchtgott-Roth
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

International Transcription Service
1231 20th Street, N.W.
Washington, D.C. 20036

Peter Arth, Jr. Esq.
Lionel B. Wilson, Esq.
Mary Mack Adu, Esq.
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

James M. Talens, Esq.
Steptoe & Johnson LLP
1330 Connecticut Ave., N.W.
Washington, D.C. 20036-1795

Mark J. O'Connor, Esq.
James J. Halpert, Esq.
Piper & Marbury L.L.P.
1200 19th Street, N.W.
Seventh Floor
Washington, D.C. 20036

John F. Raposa, Esq.
Richard McKenna, Esq.
GTE Service Corporation
600 Hidden Ridge, HQE03J36
P.O. Box 152092
Irving, TX 75015-2092

Gail L. Polivy, Esq.
GTE Service Corporation
1850 M Street, N.W.
Washington, D.C. 20036

Mark C. Rosenblum, Esq.
Leonard J. Cali, Esq.
Judy Sello, Esq.
AT&T Corp.
295 North Maple Avenue
Room 324511
Basking Ridge, NJ 07920

M. Robert Sutherland, Esq.
A. Kiven Gilbert, III
BellSouth Corporation
1155 Peachtree Street, N.E.
Suite 1700
Atlanta, GA 30309

Robert M. Lynch, Esq.
Durward D. Dupre, Esq.
Michael J. Zpevak, Esq.
SBC Communications Inc.
One Bell Center, Room 3532
St. Louis, Missouri 63101

Ms. Janice Myles
Policy and Planning Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 544-1600G
Washington, D.C. 20554